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SENATE BILL 435

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO SUBDIVISIONS; AMENDING THE NEW MEXICO SUBDIVISION
ACT TO CLARIFY AN EXCEPTION FROM THE MEANING OF "SUBDIVISION".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS. -- As used in the New Mexico
Subdivision Act:

A. "immediate family member" means a husband, wife,
father, stepfather, mother, stepmother, brother, stepbrother,
sister, stepsister, son, stepson, daughter, stepdaughter,
grandson, stepgrandson, granddaughter, stepgranddaughter,
nephew and niece, whether related by natural birth or adoption;

B. "lease" means to lease or offer to lease land;

C. "parcel" means land capable of being described

underscored material = new
[bracketed material] = delete

1 by location and boundaries and not dedicated for public or
2 common use;

3 D. "person" means any individual, estate, trust,
4 receiver, cooperative association, club, corporation, company,
5 firm, partnership, joint venture, syndicate or other entity;

6 E. "final plat" means a map, chart, survey, plan or
7 replat certified by a licensed, registered land surveyor
8 containing a description of the subdivided land with ties to
9 permanent monuments prepared in a form suitable for filing of
10 record;

11 F. "preliminary plat" means a map of a proposed
12 subdivision showing the character and proposed layout of the
13 subdivision and the existing conditions in and around it and
14 need not be based upon an accurate and detailed survey of the
15 land;

16 G. "sell" means to sell or offer to sell land;

17 H. "subdivide" means to divide a surface area of
18 land into a subdivision;

19 I. "subdivider" means any person who creates or who
20 has created a subdivision individually or as part of a common
21 promotional plan or any person engaged in the sale, lease or
22 other conveyance of subdivided land; however, "subdivider" does
23 not include any duly licensed real estate broker or salesperson
24 acting on another's account;

25 J. "subdivision" means the division of a surface

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1 area of land, including land within a previously approved
2 subdivision, into two or more parcels for the purpose of sale,
3 lease or other conveyance or for building development, whether
4 immediate or future; but "subdivision" does not include:

5 (1) the sale, lease or other conveyance of any
6 parcel that is thirty-five acres or larger in size within any
7 twelve-month period, provided that the land has been used
8 primarily and continuously for agricultural purposes, in
9 accordance with Section 7-36-20 NMSA 1978, for the preceding
10 three years;

11 (2) the sale or lease of apartments, offices,
12 stores or similar space within a building;

13 (3) the division of land within the boundaries
14 of a municipality;

15 (4) the division of land in which only gas,
16 oil, mineral or water rights are severed from the surface
17 ownership of the land;

18 (5) the division of land created by court
19 order where the order creates no more than one parcel per
20 party;

21 (6) the division of land for grazing or
22 farming activities; provided the land continues to be used for
23 grazing or farming activities;

24 (7) the division of land resulting only in the
25 alteration of parcel boundaries where parcels are altered for

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[bracketed material] = delete

1 the purpose of increasing or reducing the size of contiguous
2 parcels and where the number of parcels is not increased;

3 (8) the division of land to create burial
4 plots in a cemetery;

5 (9) the division of land to create a parcel
6 that is sold or donated as a gift to an immediate family
7 member; however, this exception shall be limited to allow the
8 seller or donor to sell or give no more than one parcel per
9 tract of land per immediate family member;

10 (10) the division of land created to provide
11 security for mortgages, liens or deeds of trust; provided that
12 the division of land is not the result of a seller-financed
13 transaction;

14 (11) the sale, lease or other conveyance of
15 land that creates no parcel smaller than one hundred forty
16 acres;

17 (12) the division of land to create a parcel
18 that is donated to any trust or nonprofit corporation granted
19 an exemption from federal income tax, as described in Section
20 501 (c) (3) of the United States Internal Revenue Code of 1986,
21 as amended; school, college or other institution with a defined
22 curriculum and a student body and faculty that conducts classes
23 on a regular basis; or ~~[to any]~~ church or group organized for
24 the purpose of divine worship, religious teaching or other
25 specifically religious activity; or

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1 (13) the ~~[sale, lease or other conveyance of a~~
2 ~~single parcel from]~~ division of a tract of land, except from a
3 tract within a previously approved subdivision, ~~[within any~~
4 ~~five-year period]~~ into two parcels provided that a second or
5 subsequent ~~[sale, lease or other conveyance from the same tract~~
6 ~~of land]~~ division of either of the two parcels within five
7 years of the ~~[first sale, lease or other conveyance]~~ date of
8 the division of the original tract of land shall be a
9 subdivision subject to the provisions of the New Mexico
10 Subdivision Act; provided further that a survey shall be filed
11 with the county clerk indicating the ~~[five-year holding period~~
12 ~~for both the original tract and the newly created tract]~~ date
13 of the division of the original tract of land;

14 K. "terrain management" means the control of
15 floods, drainage and erosion and measures required for adapting
16 proposed development to existing soil characteristics and
17 topography;

18 L. "time of purchase, lease or other conveyance"
19 means the time of signing any document obligating the person
20 signing the document to purchase, lease or otherwise acquire a
21 legal interest in land;

22 M "common promotional plan" means any plan or
23 scheme of operation, undertaken by a single subdivider or group
24 of subdividers acting in concert, to offer for sale or lease
25 parcels of land where such land is either contiguous or part of

1 the same area of land or is known, designated or advertised as
2 a common unit or by a common name;

3 N. "type-one subdivision" means any subdivision
4 containing five hundred or more parcels, any one of which is
5 less than ten acres in size;

6 O. "type-two subdivision" means any subdivision
7 containing not fewer than twenty-five but not more than four
8 hundred ninety-nine parcels, any one of which is less than ten
9 acres in size;

10 P. "type-three subdivision" means any subdivision
11 containing not more than twenty-four parcels, any one of which
12 is less than ten acres in size;

13 Q. "type-four subdivision" means any subdivision
14 containing twenty-five or more parcels, each of which is ten
15 acres or more in size; and

16 R. "type-five subdivision" means any subdivision
17 containing not more than twenty-four parcels, each of which is
18 ten acres or more in size."